

PERAC LEGISLATION APPROVED BY GOVERNOR BAKER AND THE GENERAL COURT

Age-Related Pension Provision Repealed

By Michael DeVito
Director of Public Affairs

The Massachusetts General Court has passed and Governor Charles D. Baker has approved another PERAC-proposed update to Chapter 32 - the repeal of Section 90G^{3/4}. Effective July 1, 2017, Outside Sections 28 and 141 of Chapter 47 of the Acts of 2017 repealed Section 90G^{3/4} which previously required that an employee who had reached the age of 70 and wished to continue to accrue creditable service after that age and receive regular compensation had to elect to do so. PERAC regulations 840 CMR 11.00 outlined the procedure for making this election.

The language of the Budget Outside Sections is exactly the same as that filed by the Commission as H. 18 prior to the beginning of the 2017-2018 legislative session. It sought to repeal this Section to protect employees who work beyond age 70 and to remove an unnecessary administrative burden for them.

The Commission also sought to repeal Chapter 32 Section 90G^{3/4} because there was serious concern by the Commission's tax counsel that Section 90G^{3/4} was discriminatory. Tax counsel had determined



Gov. Charles D. Baker



Sen. Michael J. Rodrigues



Rep. Jerald A. Parisella

that contributions by members over age 70 had to be made on a post-tax basis in order to preserve the overall IRS tax qualification of the retirement system, rather than the pre-tax basis that is applicable to members under age 70.

Now that this legislation is law, members would simply continue making contributions and accruing creditable service after age 70 and their contributions would be on a pre-tax basis just like all other members of the system under age 70.

The second section of the legislation makes clear that any member who has previously made an election under the provisions of Section 90G^{3/4} through June 30, 2017 will have said election maintained. The 90G^{3/4} election was always irrevocable and this provision maintains that requirement.

Budgetary Request Gains Quick Consideration

PERAC's H. 18 was filed in October, 2016 and received a hearing before the Joint Committee on Public Service on April 12, 2017. Seeking swift consideration by the Legislature, the Commission sought to more expeditiously enact this necessary repeal through the FY 18 budgetary process.

Almost immediately after the public hearing, at which no opposition was voiced, PERAC staff contacted House Chairman of the Joint Committee on Public Service, Representative Jerald A. Parisella, and his staff about the prospect of his filing this repeal as a budget amendment to the House's FY 18 budget on behalf of the Commission. (Continued on page 5)

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13th Emerging Issues Forum

September 14, 2017, 9:00 a.m. to 3:00 p.m.

2017 STATE VALUATION STUDY

By James Lamenzo
Actuary

Two charts from the January 1, 2017 actuarial valuation report of the State Retirement System (SRS) are presented on this page. The bar chart shows the unfunded actuarial liability (UAL) for the SRS since 1990. The UAL represents the actuarial accrued liability less the value of plan assets. (When there is no UAL, the system is said to be fully funded.) As of January 1, 2017, the actuarial liability was \$38.3 billion and the actuarial value of plan assets was \$24.8 billion. The difference of \$13.5 billion is the UAL, which represents only a \$43 million increase from the 2016 valuation.

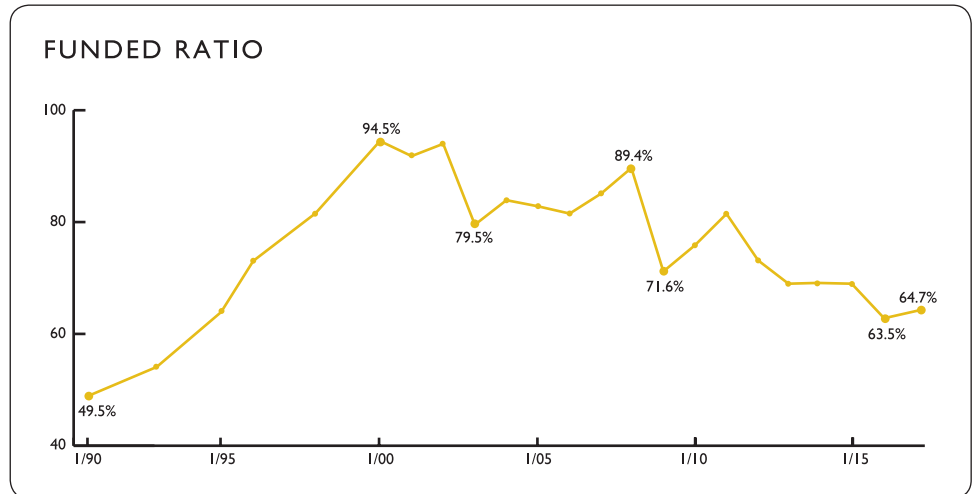
This increase is small despite a change in the mortality assumption that increased the actuarial liability (and correspondingly the UAL) by \$304 million (a .8% increase in actuarial liability). The UAL would have decreased if there were no change in the actuarial assumptions.

Early Retirement Incentive

Chapter 79 of the Acts of 2014 established an early retirement incentive (ERI) program for certain employees of the highway division of the Department of Transportation whose positions have been eliminated due to the cessation of manual toll collection. The law provided that eligible members who elected to participate had their retirement allowances determined by adding 5 years to age and/or creditable service (any combination in full years). Most members retiring under the ERI had a date of retirement of October 30, 2016. The ERI was taken by 117 members. The increase in actuarial liability due to the ERI was \$10.8 million as of June 30, 2017. The full ERI report is available on our website (mass.gov/perac).

Plan Experience

During 2016 there was an overall actuarial gain of \$758 million. There was a



non-investment related gain (gain on actuarial accrued liability) of \$517 million due primarily to paying for continuing members being greater than expected. There was a gain of approximately \$241 million on the actuarial value of assets. The return on assets was approximately 8.4% on an actuarial value basis, compared to 8.0% on a market value basis.

You can find more detail on pages 4 through 8 of the *State Retirement System Actuarial Valuation Report* found on our website.

Funding Progress

It is important to note that plan assets have grown faster than plan liabilities since 1990. As of January 1, 1990, the actuarial accrued liability was approximately \$7.5 billion and assets were \$3.7 billion resulting in a \$3.8 billion UAL. Since 1990, the actuarial liability has grown about 5.1 times while assets have grown about 6.7 times. For this reason, we believe the funded ratio represents a better measure of the plan's funded progress. The funded ratio equals the actuarial value of plan assets divided by the actuarial accrued liability. When the funded ratio reaches 100%, a system is fully funded. The funded ratio chart shows the progress made by the SRS since 1990.

The 2008 investment loss significantly impacted the UAL and funded ratios for the

State Retirement System, as it did for all systems. However, despite the 2008 loss, the SRS has an average return of approximately 9.5% per year since 1985. This exceeds the investment return assumption of 7.5% effective as of January 1, 2016. If you draw a straight line from the 1990 to the 2016 funded ratio, the line is moving upward to the right. This demonstrates the funding progress that has been made. Some argue that the plan was 94.5% funded on January 1, 2000 and has moved backward the past decade. I would argue that getting to that level in 2000 was a case of getting "too much, too soon." The system earned about 12.6% per year from 1985 through 1999. Under more "normal" circumstances, the funded ratio graph would not have increased so steeply in the 1990s. In fact, if the actual returns from 1985 to 2013 had been exactly 9.4% EACH year, the graph would move slowly upward to the right and most impartial observers would agree significant funding progress had been made.

We indicated earlier that the actuarial liability as of January 1, 2017 increased \$304 million to reflect a revised mortality assumption, and increased \$10.8 million to reflect the adoption of the Early Retirement Incentive. There have been a number of other plan and assumption changes since 2009 that have (Continued next page)

increased the State's actuarial liability. These changes include three separate reductions in the investment return assumption (from 8.25% as of January 1, 2012, to 7.50% as of January 1, 2016), annual adjustments to the mortality assumption including the change to a fully generational assumption as of January 1, 2015, the adoption of a \$13,000 COLA base, the transfer of active members of sheriff departments in six counties, the transfer of former members of the Massachusetts Turnpike Authority Retirement System to the State Retirement

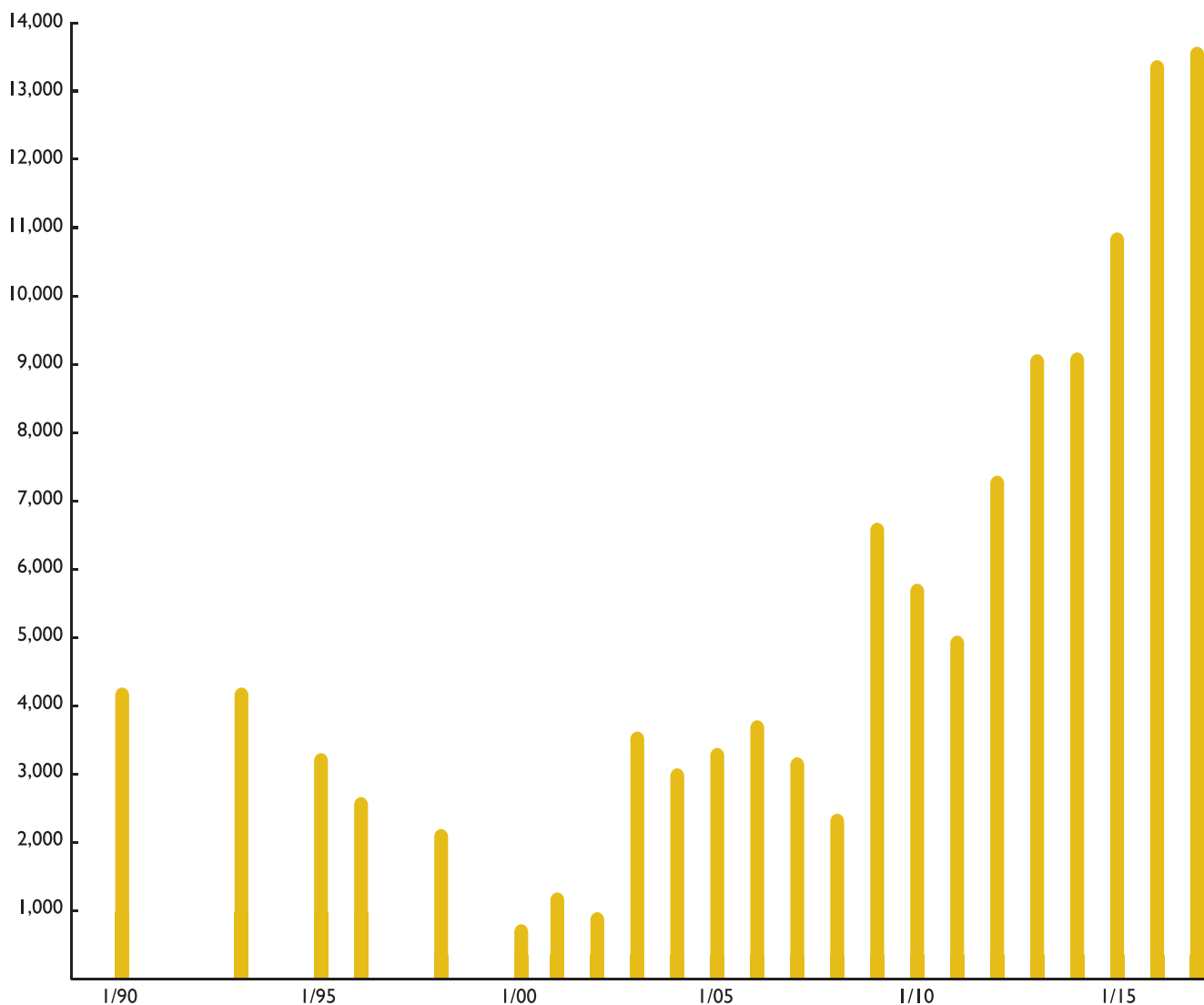
System, the 2015 Early Retirement Incentive, and the transfer of Optional Retirement Plan (ORP) members to the State Retirement System.

Including the changes as of January 1, 2017, the actuarial liability is approximately \$4.26 billion greater than it would have been using the 2009 valuation assumptions and plan provisions. Therefore, on a comparable basis with 2009, the UAL on January 1, 2017 would be \$9.3 billion and the funded ratio would be 72.7%.

Please note: The results presented on the prior page pertain exclusively to the State Retirement System. The State Retirement System is one of the four components of the Commonwealth of Massachusetts pension valuation. The other three components are the Massachusetts Teachers' Retirement System, Boston Teachers, and the Cost of Living Allowance Reimbursements to Local Systems. ■

UNFUNDED LIABILITY

(in millions of dollars)



UPCOMING BOARD ADMINISTRATOR TRAININGS

*By Judith Corrigan
Deputy General Counsel &
Managing Attorney*

One of PERAC's many responsibilities is "providing training and legal and technical assistance to retirement boards." G.L. c. 7, § 50(f). We have done that consistently throughout the years in a variety of ways, including formal educational presentations at various locations throughout the state. When Chapter 176 of the Acts of 2011 inserted Section 20(7) into Chapter 32, requiring board member training, much of our focus in formal training sessions necessarily turned to board members. Administrators have been and are always welcome at the presentations for which board members receive educational credit. However, PERAC will soon be conducting three one-day trainings specifically geared toward Board Administrators.

These trainings will be held on Thursday, August 10, 2017 in Northampton, on Tuesday, October 17, 2017 in Hyannis, and on Tuesday, November 14, 2017 in Danvers. Each training will begin at 8:00 AM and end at 4:00 PM. All attendees will receive a certificate at the conclusion of the session.

Although these presentations will be specifically tailored toward board administrators, board members are welcome to attend and will earn three credits for their attendance for the day.

Topics will include regular compensation, buy backs, calculations and how to run a board meeting. The agenda is shown to the right and is also available on PROSPER. In addition, if you are interested in attending, you must register through PROSPER. ■

AGENDA

8:00 AM	Sign-in and Registration
8:30 AM	Calculations
9:30 AM	Running a Board Meeting
10:30 AM	Break
10:45 AM	Regular Compensation
12 NOON	Lunch
12:45 PM	Dual Members
1:15 PM	Anti-Spiking
1:45 PM	Break
2:00 PM	Buy Backs & Interest
3:00 PM	Q & A, Certificates, Closing Remarks

LOCATIONS

August 10th - Northampton

Hotel Northampton
36 King Street, Northampton, MA

October 17th - Hyannis

DoubleTree by Hilton Cape Cod
287 Iyannough Road, Hyannis, MA

November 14th - Danvers

Danvers Retirement Board
Town Hall, 1 Sylvan Street, Danvers, MA
(snow date: Nov. 15th)

REGISTER

*You must register
through*
PROSPER PERAC

After he and his staff's due diligence deliberation of the issue, including the staff's in-depth conversation with PERAC's Deputy General Counsel Judith Corrigan, Chairman Parisella graciously agreed to file the amendment for PERAC.

House FY 18 Budget Amendment #1024 was sponsored by Representative Parisella and contained the same language as PERAC's bill, H. 18. It passed the Massachusetts House of Representatives on Tuesday, April 25, 2017 as Sections 114 and 115 of H. 3601 - the final House budget.

Similarly, PERAC sought the support of Senate Majority Whip, Senator Michael J. Rodrigues. After he and his staff conducted their due diligence deliberation, and again after in-depth conversation with PERAC's Deputy General Counsel Judith Corrigan, Senate Majority Whip Michael J. Rodrigues graciously agreed to file Amendment #26 containing the same language as PERAC's bill, H. 18 and House Outside Sections #114 and #115. This amendment passed the Massachusetts Senate on Tuesday, May 23, 2017 on a 38-0 vote as Sections 45 and 191 of S. 2076: the Senate's FY 18 Budget.

Subsequently, the PERAC proposal was included by the House and Senate in H. 3800, the FY 18 Budget Conference Committee Report that was placed on Governor Charles Baker's desk on June 7, 2017. PERAC had kept the Governor's Office informed as the process ensued and after its inclusion in the Conference Committee Report, Commission Executive Director Joseph E. Connarton wrote to Governor Baker seeking his approval of this important proposal. Governor Baker approved the Outside Sections and the proposal was signed into law as Outside Sections 28 and 141 of Chapter 47 of the Acts of 2017, the final FY 18 budget on July 17, 2017.

PERAC Chairman Philip Y. Brown commented on the latest PERAC legislative success:

I know my fellow Commissioners join me in thanking Governor Baker for his approval and the Massachusetts legislature and its leaders Senate President Stanley C. Rosenberg and House Speaker Robert A. DeLeo for their strong support in once again enacting a PERAC proposal aimed at improving Massachusetts pension law.

As we advocated for the repeal of this onerous provision, we made clear the feelings of the Commission that the provision in Massachusetts law was legally questionable and thus deserved immediate repeal. We are gratified that Governor Baker and the General Court have now chosen to repeal this provision.

PERAC Executive Director Joseph E. Connarton also commented on the repeal of Section 90G^{3/4}:

I want to join Chairman Brown in thanking Governor Baker and the legislative leadership for their continuing steadfast support for PERAC's legislative initiatives on Beacon Hill. I would also be remiss if I did not recognize the tremendous support that has been afforded this agency by Senator Karen Spilka, Chair of the Senate Committee on Ways and Means and former Chairman of the House Committee on Ways and Means, Brian Dempsey.

I also want express my thanks to the two legislators who directly influenced this issue by proposing PERAC's language as amendments to their respective budgets: House Chairman of the Joint Committee on Public Service, Representative Jerry A. Parisella and

Senate Majority Whip, Senator Michael J. Rodrigues. Without their spearheading this effort on our behalf, this repeal would not have occurred.

We appreciate the tremendous reception that our initiatives have received on Beacon Hill. In addition to its own groundbreaking pension reforms of the past decade, the General Court has continuously exhibited its confidence in the Commission's ongoing efforts to reform the Commonwealth's pension laws. From the enactment of the agency and retirement board-transformative governance reforms of Chapter 176 of the Acts of 2011, to last year's Chapter 77 of the Acts of 2016, our concurrent beneficiaries reform and now with this repeal, the Commission continues to work to refine, revise and positively improve Massachusetts's pension law. We look forward to a continuing close working partnership with the Administration and the legislature in these efforts. ■

Note: Guidance to Retirement Boards on the repeal of § 90G^{3/4} can be found in 2017 PERAC Memo #25

APPLICATION OF NEW PUBLIC RECORDS LAW FOR RETIREMENT BOARDS

By Michael DeVito
Director of Public Affairs

On June 24, 2017 PERAC issued **Memorandum #20a, 2017** related to the application of the 2016 updated Public Records Law to local, county, and regional retirement boards. The agency had previously sought an opinion of the Massachusetts Secretary of State's Office to seek their advice on this subject.

The updated law, which was enacted by Chapter 121 of the Acts of 2016, amends several different chapters of the General Laws. The new law distinguishes between municipalities and agencies and imposes different responsibilities based on that distinction. In its request to the Supervisor of Public Records ("the Supervisor"), PERAC argued that local, county, and regional retirement boards should be viewed as municipal entities rather than state agencies.

In response, the Supervisor recently issued SPR Bulletin 01-17 in which the Supervisor agreed with PERAC and others that local, county, and regional retirement boards fall within the definition of "municipality." The Supervisor based this determination on "[f]actors such as sources of funding, geographic focus and authority, amount of resources available, as well as the number of members and employees." As outlined in PERAC **Memorandum #1 of 2017**, the updated public records law contains several new requirements for both municipalities and agencies.

Effective July 1, 2017 all boards must update their website with the following:

- ▶ Identify the board's Records Access Officer (RAO) and the RAO's contact information
- ▶ Post the board's guidelines for making a public records request to the board
- ▶ To the extent feasible, make commonly requested documents such as the board's budget, annual reports, audits, and meeting minutes readily available.

Additional Protections for Retirees

In addition to home addresses and telephone numbers, Chapter 121 added personal email addresses for public employees/retirees and their families as exempt from public disclosure. This information may be disclosed to an employee organization under Chapter 150E, a nonprofit organization for retired public employees under Chapter 180 or to criminal justice agencies as defined in Section 167 of Chapter 6.

Please contact PERAC's Legal Unit if you have any questions. ■

*New public records
requirements
became effective on
July 1, 2017*



*By Michael DeVito
Director of Public Affairs*

A recent article in Pensions & Investments entitled, “Pension Fund executive director warns of coming pension fund defaults” by Douglas Appell (6/27/17) contained interesting comments by Sanford Rich, Executive Director of the New York City Board of Education Retirement System. He said:

For public retirement systems, ‘defined benefit plans will go away, except for very strong economies,’ he predicted, adding he’d like to think New York City will be “one of those.”

The difference, meanwhile, between the vulnerable and the strong will come down to ‘good governance, a very small word that covers a lot of territory,’ he said.

Rather than focusing on the dire prediction concerning the future of defined benefit plans, the second part of his remarks have greater applicability to Massachusetts’ retirement systems. Mr. Rich is correct in asserting that good governance is one of the keys to the future success of defined benefit retirement plans. We are well ahead of the curve in Massachusetts due

to the enactment of Chapter 176 of the Acts of 2011.

Over 10 years ago, PERAC initiated a major review of the agency’s oversight role. PERAC’s Executive Director Joseph E. Connarton stated in a Pension News article at the time that “the intent was to provide the tools needed by retirement boards and PERAC to bring all of our retirement systems into full compliance with the expectations of the Commonwealth’s taxpayers for openness and transparency in their government.”

The process of implementation of the governance changes began in earnest almost immediately in early 2012 after the November 18, 2011 signing of the Act by then Governor Deval Patrick. The first credited continuing educational session took place on January 26, 2012 and as you are well aware, they have continued and expanded in earnest ever since.

Good Governance Delivers

Mr. Rich’s insightful comment that governance would make the difference between the systems that are strong and those that would be vulnerable is right on point. Now, with more than 5 years of implementation in the Commonwealth, our systems are certainly testament to

that assertion. Transparency has blossomed in board operations, and their procedures as far as possible are open to review by the taxpaying public now more than ever before. More openness means enhanced attention to detail - and better performance. In addition, concentration on topics such as ethics, conflict of interest, and fiduciary responsibility – legislated as mandatory components of the continuing education offered far and wide by PERAC, the Massachusetts Association of Contributory Retirement Systems (MACRS), and the network of educational providers approved by the agency – ensure that sound principles will guide the boards in their decision-making and deliberations.

In addition, major gains are being made in the procurement area. Before Chapter 176, in a befuddled situation, “retirement board services” were expressly exempted from the bidding requirements of Chapter 30B of the Massachusetts General Laws. While competitive bidding was always required under a board’s fiduciary duty, it was confusing at best and bewildering at worst. Now, in four major areas of retirement board expenditure – Investment, Legal, Accounting, and Actuarial – boards must adhere to rigorous procurement procedures.

One need only recall the more than \$200,000 for legal services expenditures in one system uncovered in a past PERAC audit in which not only had open and competitive bidding not taken place, but no contracts at all could be discovered. This glaring example of the lack of adherence to sound fiduciary and management policy helped provide impetus for the enactment of the Chapter 32, Section 23B procurement requirements. The aim was clear – preclude any such practices from happening again. Failure to adhere to the required procurement requirements will not be tolerated - and will result in disciplinary action.

(Continued next page)

Procurement Pays

In fact, boards that have undertaken these procedures have been pleased to confirm that they have realized significant savings in costs due to open and competitive bidding. The board can only gain in concrete savings to the system and its members, and in the further enhancement of transparency by allowing additional vendors to vie openly for their business. Maintaining cozy relationships with long-time vendors due solely to the comfort and familiarity they may represent are not Best Practices for a board - and not necessarily the most cost-effective for the systems.

One additional point, the newness of the requirements for board members to file

Statements of Financial Interest (SFI's), participate in continuing education, conduct board procurement and the other compliance requisites of Chapter 176 will over time be incorporated seamlessly into the ongoing, ordinary operational procedures of the boards.

A Few Steps Ahead

Fortunately, Massachusetts has gained advantage in instituting retirement board governance reform when it did. These reforms, coupled with the outstanding financial responsibility of the Commonwealth and its municipalities, and the sound actuarial principles adopted for our systems, have set Massachusetts defined benefit systems on a straight and well-defined path to full funding within the next 15-20 years.

It will be clear that it is not the nature of a defined benefit system in which risk lies — but the policies and conscientiousness of the governing jurisdictions which are responsible for them and the boards that govern them — that matter. In the case of the Commonwealth, sound retirement board governance, dedicated funding by the Commonwealth and its municipalities and a clear and responsible actuarial path have placed the Commonwealth well ahead of the curve and well ahead of many other states. ■

REGISTER TODAY!

PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

13th EMERGING ISSUES FORUM

Agenda available soon!

where: Hogan Conference Center
College of the Holy Cross, Worcester, MA

when: September 14, 2017
9 am to 3 pm

Attendance = 3 educational credits for Board Members





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